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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/095,174 06/10/98 SEITZ

W NIOX:002--/H

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EXAMINER

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ART UNIT

PAPER NUMBER

1614

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DATE MAILED:

06/14/99

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**09/095,174**

Applicant(s)  
**Seitzet AI**

Examiner  
**James H. Reamer**

Group Art Unit  
**1614**



☒ Responsive to communication(s) filed on Mar 26, 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-29 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-29 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 6

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 to 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tawashi.

Compositions containing sodium nitrite, a reductant and an acid and the use of these compositions to deliver nitric oxide to a site are taught by Tawashi. The selection of other equivalent reductants and acids for the ones taught by Tawashi are considered to be obvious to one skilled in the art since the chemistry of reducing a nitrite to nitric oxide is well known. The instant claims are considered to be prima facie obvious over this teaching absent evidence of unexpected results.


The use of a two part system to administer the composition and method for delivering the two part system is also considered to be obvious since the nitric oxide would be immediately released by to mixture if the sodium nitrite and reductant are mixed prior to applying the composition. This technology is well known in the art.

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*Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references are cited to show the state of the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James H. Reamer whose telephone number is (703) 308-4461.

  
JAMES H. REAMER  
PRIMARY EXAMINER  
GROUP/600 - ART UNIT 1614

JHR

June 9, 1999